

### **REMARKS/ARGUMENTS**

This case has been carefully reviewed and analyzed in view of the non-final Office Action dated 14 May 2009. Responsive to the non-final Office Action, Claims 37, 39-41 and 45-46 have been amended to further clarify the combination of elements that define the invention of the subject Patent Application. Additionally, Claim 38 has been canceled by this Amendment. Accordingly, Claims 37 and 40-47 remain pending for further prosecution.

In the Office Action, the Examiner rejected Claims 37-47 under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Specifically, the Examiner stated that the Claims contain subject matter which is not described in the Specification in such a way as to reasonably convey to one skilled in the relevant art that the invention, at the time the Application was filed, had possession of the claimed invention. The Examiner stated that the subject matter which was not specifically described in the original Specification is the use of the following terms: (a) "relative to a beat fiducial point"; (b) "as a function of an R-R interval"; and (c) "based upon the amplitude of the electrical signal at a sample defined by the beat fiducial point and the first particular time offset." Accordingly, the phrase "relative to a beat fiducial point" has been changed to read "relative to a sample within an R wave". Likewise, the phrase "as a function of an R-R interval" has been replaced with the phrase "based on the R-R interval." Finally, the phrase "based upon the amplitude of the

electrical signal at a sample defined by the beat fiducial point and the first particular time offset” has been replaced by the phrase “a portion of the ST segment defined by the first particular time offset.”

Support for the amended language can be found in the Specification as filed. The originally filed Specification states that “it [is] envisioned that the offsets  $T_{PQ}$  (502) and  $T_{ST}$  (504) and/or the durations  $D_{PQ}$  (506) and  $D_{ST}$  (508) could vary depending upon the R-R interval between beats or the average R-R interval for an electrogram segment.” Fischell, Specification, page 36, lines 7-11. It is to be noted, however, that Claim 37 is not limited to offsets that define PQ or ST segments; for example, dependent claim 41 specifies that an offset pertains to an ST segment.

Further still, the Specification goes on to state that “the simplest method of adjusting the times  $T_{PQ}$  and  $T_{ST}$  is to adjust them in proportion to the R-R interval from the preceding R wave to the R wave of the current beat.” Id. at lines 37-38. Finally, the Specification as filed states that “[a]n excessive ST shift for a single beat of a recently collected electrogram segment is then detected when the ST deviation  $\Delta V$  for that beat shifts by more than a predetermined threshold amplitude from the average baseline ST deviation  $\Delta V_{BASE(i)}$  collected approximately 24 hours before.”

Simply put, the amendments to the aforementioned Claims are now fully supported by the Specification as filed and it is believed that the Examiner’s

rejection under 35 U.S.C. § 112, first paragraph, has been obviated. Applicant further requests that the rejection under 35 U.S.C. § 112, first paragraph, be withdrawn.

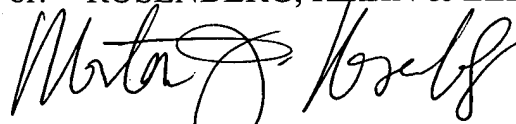
Finally, the Examiner rejected Claims 37-43 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Accordingly, Claims 37, 45, and 46 have been amended to further clarify the subject matter being claimed. Accordingly, it is believed that Claims 37, 45, and 46 have been amended to obviate the Examiner's formal concerns under 35 U.S.C. § 112, second paragraph. Applicant respectfully requests that the rejection under 35 U.S.C. § 112, second paragraph, be withdrawn.

It is now believed that the subject Patent Application has been placed fully in condition for allowance, and such action is respectfully requested.

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Reply to Office Action dated 14 May 2009

If there are any further charges associated with this filing, the Director of Patents and Trademarks is hereby authorized to charge Deposit Account #18-2011 for such charges.

Respectfully submitted,  
For: ROSENBERG, KLEIN & LEE

A handwritten signature in black ink, appearing to read "Morton J. Rosenberg", written over the printed name.

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